

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE BILAL NAZKI

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO : 915 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
31/03/2005 in WP NO : 6271 OF 2005 on the file of the High Court.)

Between:

M/s. Mc.Dowell & Co.Ltd., Having its registered office At Mc.Dowell House, 51 Rich
Mond Road, Bangalore-25, rep.by Power of Authority Holder, Shri Krishna Swamy
Iyenger, S/o.Ranga Chari, aged 49 years, R/o.345-SRT, S.R.Nagar, Hyderabad.

..... APPELLANT

AND

1. The Principal Secretary to Government, Revenue Department, Secretariat Building, Hyderabad.
2. The Commissioner Appeals, Urban Land Ceilings, Nampally Station Road, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam.
4. The District Collector, Visakhapatnam.
5. The Commissioner, Municipal Corporation, Visakhapatnam.
6. The Vice Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam.
7. The Mandal Revenue Officer, Visakhapatnam Urban Mandal, Visakhapatnam.
8. The Station House Officer, Visakhapatnam Town, Visakhapatnam.
9. The Vice-Chairman & Managing Director, Andhra Pradesh Industrial

Infrastructure Corporation Ltd., 6th floor, Parisramabhavan, 5-9-58/B,
Basheerabagh, Hyderabad-500004. A.P.

.....RESPONDENTS

Counsel for the Appellant : MR.C.HANUMANTHA RAO

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard learned Counsel for the parties.

This Writ Appeal is filed against the order passed by the learned Single Judge in Writ Petition No.6271 of 2005. This case reveals how successfully a man can defeat the Government in taking over the land, which belongs to it, by ingenuity of legal processes.

The petitioner moved an application under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as 'the Act'), seeking exemption of its lands to an extent of 101.3985 hectares situated at Venkatapuram, Gopalapatnam, Vepagunta villages and Waltair Uplands. In pursuance thereof, the Government issued orders in G.O.Ms.No.1033, dated 08.10.1992, granting exemption to an extent of 67.2165 hectares subject to conditions stipulated in the order. However, vide notice dated 19.07.1986, the petitioner was called upon to show cause as to why action be not taken against him and why the exemption be not withdrawn for an extent of 4.3101 hectares on the ground that the conditions stipulated in exemption order were not complied with. Petitioner submitted its explanation. Government, vide orders in G.O.Ms.No.630, dated 26.07.1997, withdrew the exemption granted on 08.10.1992. The petitioner challenged the order by writ petition No.23773 of 1998. Writ Petition was allowed, G.O.Ms.No.630, dated 26.07.1997 was set aside. A writ appeal was preferred by the State Government, which was allowed and learned Single Judge's order was set aside.

The petitioner-Company approached the Supreme Court by a Special Leave Petition, which was also dismissed. The petitioner-Company filed a Review and that was also dismissed on 03.04.2002. The order of Government in G.O.Ms.No.630, dated 26.07.1997 withdrawing the exemption granted under Section 20 of the Act, thus became final. But the petitioner did not give up. He filed an application under Section 21 of the Act, seeking retention of the land for the purpose of construction of dwelling units to the Weaker Sections. Alleging that the Special Officer and competent authority failed to consider the said application, he filed another writ petition being Writ Petition No.11591 of 2004. This writ petition was dismissed by the Court on 05.08.2004, granting liberty to the petitioner to file an appeal against the order dated 05.08.2004. Till 05.08.2004, he again enjoyed the stay of this Court. Again aggrieved of that order, he filed another appeal being Writ Appeal No.1712 of 2004 and the same was also dismissed. Thereafter he preferred an appeal under Section 33 of the Act before the Commissioner of Appeals, Urban Land Ceilings, Hyderabad. Pending the said appeal, he again filed a writ petition being Writ Petition No.24474 of 2004 contending that the appellate authority was not deciding his appeal. The said writ petition was disposed of on 28.12.2004, giving liberty to the petitioner to pursue his remedies before the appellate authority. This order again, was challenged in Writ Appeal No.279 of 2005. This appeal was disposed of by a Division Bench of this Court, directing the appellate authority to take up the appeal as well as the interim relief application and pass orders within one week. Petitioner did not rest with it and filed another writ petition on 23.03.2005 stating that in spite of the judgment of the Division Bench, the appellate authority had failed to pass any orders and in the meantime the respondents were taking steps to allot the land in question in favour of third parties. He also sought a declaration that the action of respondent No.1 in issuing G.O.Ms.No.829, dated 19.10.2004 allotting the land in question to the Andhra Pradesh Industrial Infrastructure Corporation Limited, was arbitrary and illegal.

The learned Single Judge noted that the appellate authority had already rejected the interim application filed by the petitioner on 24.03.2005. The land was surplus. Orders, withdrawing the exemption, have been passed as back as in the year 1997, but the petitioner, by filing successive writ petitions and appeals, has defeated the law successfully for number of years. The orders relating to the land have become final much earlier, as the petitioner lost the case against withdrawal of the exemption and the matter went up to the Supreme Court. This is clearly a case of abuse of process of Law. Therefore, while dismissing the Writ Appeal, we impose costs of Rs.25,000/-, to be paid within two weeks from today.

BILAL NAZKI, ACJ

27th April 2005.

Dr. G.YETHIRAJULU, J

ajr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary to Government, Revenue Department, Secretariat Building, Hyderabad.
2. The Commissioner Appeals, Urban Land Ceilings, Nampally Station Road, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceiling, Visakhapatnam.
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6. The Vice Chairman, Visakhapatnam Urban Development Authority, Visakhapatnam.
7. The Mandal Revenue Officer, Visakhapatnam Urban Mandal, Visakhapatnam.
8. The Station House Officer, Visakhapatnam Town, Visakhapatnam.

9. The Vice-Chairman & Managing Director, Andhra Pradesh Industrial Infrastructure Corporation Ltd., 6th floor, Parisramabhavan, 5-9-58/B, Basheerabagh, Hyderabad-500004. A.P.
10. Two C.Cs. to the GP for Revenue, High Court of A.P. buildings, Hyderabad (OUT)
11. Two C.D. copies.
12. 1 C.C. to Mr.N.Ranga Reddy, Advocate.
13. 1 C.C. to Mr.C.Hanumantha Rao, Advocate.
14. 1 C.C. to Mr.E.Madan Mohan Rao, Advocate.
15. 1 C.C. to Mr.V.Preethi Reddy, Advocate.

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